

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION
CA No. 5:18-cv-219-D

LAURA PONTONES, on behalf of herself)
and all others similarly situated,)

Plaintiff,)

v.)

SAN JOSE RESTAURANT,)
INCORPORATED; SAN JOSE)
MANAGEMENT, INC., d/b/a SAN JOSE)
MEXICAN RESTAURANT AND SPORTS)
CANTINA; SAN JOSE MEXICAN)
RESTAURANT #2 OF LUMBERTON, INC.;)
SAN JOSE MEXICAN RESTAURANT OF)
ELIZABETHTOWN, INC.; SAN JOSE)
MEXICAN RESTAURANT OF N.C. INC.;)
SAN JOSE MEXICAN RESTAURANT OF)
PEMBROKE, NC, INC.; SANJOSE)
MEXICAN RESTAURANT OF RALEIGH)
INC.; SAN JOSE MEXICAN RESTAURANT)
OF SHALLOTTE, INC.; SAN JOSE OF)
ROCKY MOUNT #2 INC., d/b/a SAN JOSE)
TACOS AND TEQUILA; SAN JOSE OF)
ZEBULON, INC.; SAN JOSE OF ROANOKE)
RAPIDS, INC.; SAN JOSE WAKEFIELD,)
INC., d/b/a SAN JOSE MEX AND TEQUILA)
BAR; PLAZA AZTECA RALEIGH, INC.,)
d/b/a SAN JOSE TACOS AND TEQUILA;)
HECTOR FLORES; ALBERTO FLORES;)
JOSUE FLORES; JOSE PEREZ; VICENTE)
PEREZ; PABLO MEZA; EDGARDO)
FLORES; and EDGAR FLORES,)

Defendants.)

**PLAINTIFF'S MOTION FOR CONDITIONAL CERTIFICATION PURSUANT TO THE
FAIR LABOR STANDARDS ACT, FOR COURT-AUTHORIZED NOTICE TO BE
ISSUED UNDER 29 U.S.C. § 216(B), FOR CLASS CERTIFICATION UNDER FED. R. CIV.
P. 23, AND FOR APPOINTMENT OF CLASS COUNSEL UNDER FED. R. CIV. P. 23(G)**

Plaintiff Laura Pontones, on behalf of herself and all others similarly situated, through

her undersigned attorneys, hereby moves for the following relief: (1) conditional certification of this action as a representative collective action under the Fair Labor Standards Act (“FLSA”) and certification of this action as a class action under Rule 23(a) and (b)(3) pursuant to the North Carolina Wage and Hour Act (“NCWHA”); (2) approval of the proposed FLSA/R.23 NCHWA notice of this action and the consent form in both English and Spanish; (3) a production of names, last known mailing addresses, alternate addresses, telephone numbers, email addresses, and dates of employment of all putative class members; (4) ability to email and/or text message the proposed Notice, along with utilizing regular U.S. Mail and posting the Notice at all locations in English and Spanish; (5) appointing named Plaintiff Laura Pontones as class representative, and the Law Offices of Gilda A. Hernandez, PLLC as class counsel.

In support of this motion, Plaintiff Laura Pontones shall rely upon the accompanying (1) Memorandum of Law, (2) Transcript Deposition of Defendant Hector Flores as representative of Defendant, and (3) the exhibits thereto.

Respectfully submitted, this the April 26, 2019.

/s/ Gilda Adriana Hernandez
Gilda A. Hernandez (NCSB No. 36812)
**THE LAW OFFICES OF GILDA A.
HERNANDEZ, PLLC**
1020 Southhill Dr., Ste. 130
Cary, NC 27513
Tel: (919) 741-8693
Fax: (919) 869-1853
ghernandez@gildahernandezlaw.com

Attorneys for Plaintiff

CERTIFICATE OF SERVICE

I hereby certify that on April 26, 2019, I electronically filed the foregoing true and accurate copy of **PLAINTIFF'S MOTION FOR CONDITIONAL CERTIFICATION PURSUANT TO THE FAIR LABOR STANDARDS ACT, FOR COURT-AUTHORIZED NOTICE TO BE ISSUED UNDER 29 U.S.C. § 216(B), FOR CLASS CERTIFICATION UNDER FED. R. CIV. P. 23, AND FOR APPOINTMENT OF CLASS COUNSEL UNDER FED. R. CIV. P. 23(G)** with the Court using the CM/ECF system, and I hereby certify that I have thereby electronically served the document to the following:

Henry W. Jones, Jr. (N.C. Bar No. 8343)
Lori Peoples Jones (N.C. Bar No. 32872)
Jordan Price Wall Gray Jones & Carlton, PLLC
P. O. Box 10669
1951 Clark Ave.
Raleigh, NC 27604
919-828-2501
919-834-8447 (fax)
hjones@jordanprice.com
ljones@jordanprice.com

James Larry Stine (GA Bar No.: 682555)
Wimberly, Lawson, Steckel, Schneider & Stine, P.C.
3400 Peachtree Rd., NE
Suite 400, Lenox Towers
Atlanta, GA 30326
404-365-0900
404-261-3707 (fax)
jls@wimlaw.com

Attorneys for Defendants

/s/ Gilda Adriana Hernandez
Gilda A. Hernandez (NCSB No. 36812)
**THE LAW OFFICES OF GILDA A.
HERNANDEZ, PLLC**
1020 Southhill Dr., Ste. 130
Cary, NC 27513
Tel: (919) 741-8693
Fax: (919) 869-1853
ghernandez@gildahernandezlaw.com
Attorneys for Plaintiff